

CASCADE COUNTY PLANNING BOARD

PLANNING STAFF: Report and Recommendation

REGARDING: Public Hearing Scheduled for March 20, 2018

SUBJECT: Cascade County Zoning Regulations, Section 2 Definitions and Section 7.8.10 Uses Permitted upon Issuance of a Special Use Permit in Mixed Use District

PRESENTED BY: Alex Dachs, Senior Planner

GENERAL INFORMATION

REQUESTED ACTION:

To consider the request of the Sun River Valley Public Schools and staff to update the existing Cascade County Zoning Regulations, specifically Section 7.8.10 (Uses Permitted Upon Issuance of a Special Use Permit in Mixed Use District), and to consider the request by staff to amend Section 2 (Definitions).

The definition “Community Residential Facility” was clarified, and the portion of the definition “serving eight or fewer persons” was removed. There are subgroups to this definition that could be restricted to serving a certain number of individuals.

A request to amend the Uses permitted upon issuance of a Special Use permit in a mixed use district was revised to include the use of a second dwelling or multifamily dwelling unit including duplex. This additional use was at the request of the Sun River Valley Public Schools, to provide in-district housing that is affordable in hopes of attracting and retaining educators.

ZONING ANALYSIS

Pursuant to MCA 76-2-203 and Chapter 1 of the Cascade County Zoning Regulations, all zoning amendment requests are to be considered in light of the following ten criteria and guidelines.

The first criteria:

1. **Made in accordance with the growth policy.**

State statutes specify the following uses and limitations on uses of the Cascade County Growth Policy:

MCA 76-1-605 Use of adopted growth policy.

(1) Subject to subsection (2), after adoption of a growth policy, the governing body within the area covered by the growth policy pursuant to 76-1-601 must be guided by and give consideration to the general policy and pattern development set out in the growth policy in the:

- (a) authorization, construction, alteration, or abandonment of public ways, public places, public structures, or public utilities;
- (b) authorization, acceptance, or construction of water mains, sewers, connections, facilities, or utilities; and
- (c) adoption of zoning ordinances or resolutions.

(2) (a) A growth policy is not a regulatory document and does not confer any authority to regulate that is not otherwise specifically authorized by law or regulations adopted pursuant to the law.

(b) A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.

The 2014 Cascade County Growth Policy contains five goals which the policy defines as a broad, generalized expression of commonly held community values regarding growth, development patterns, and quality of life. They are intended to express the primary theme, or general intent and direction of the growth policy. Each goal also includes a subset of objectives which the growth policy defines as a more narrowly defined and concrete expression of community intent. The five goals and their related objectives are:

Goal 1: Sustain and strengthen the economic well-being of Cascade County citizens.

Objectives:

These primary goals are the same goals listed in the 2006 Cascade County Comprehensive Plan, as well as new additional goals. The planning board believes that these goals continue to provide the best overall direction for county planning.

- A. Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.
- B. Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.

- C. Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.
- D. Promote the development of cultural resources and tourism to broaden Cascade County's economic base.
- E. Foster and stimulate well-planned entrepreneurship among the county's citizenry.
- F. Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.
- G. Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.
- H. Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.
- I. Encourage the growth of the agricultural economy.
- J. Stimulate the growth of the economy by encouraging the use of alternate methods.

Goal 2: Protect and maintain Cascade County's rural character and the community's historic relationship with natural resource development.

Objectives:

- A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.
- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.
- C. Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.

- D. Assure clean air, clean water, a healthful environment and good community appearance.
- E. Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.
- F. Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields processes.

Goal 3: Maintain agricultural economy

Objectives:

- A. Protect the most productive soil types.
- B. Continue to protect soils against erosion.
- C. Protect the floodplain from non-agricultural development
- D. Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.

Goal 4: Retain the presence of the U.S. Military in Cascade County

Objectives:

- A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.
- B. Promote the location of additional military missions in Cascade County.
- C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations
- D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Goal 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

- A. Maintain Cascade County's citizen's independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.
- B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.
- C. Promote fire prevention measures throughout the county, giving

special emphasis to the extreme fire hazards present at the wild land/urban interface.

- D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

Applicant: In regard to goal 1, the proposed zoning amendment to be in general compliance with the growth policy's goal to sustain and strengthen the economic well-being of Cascade County's citizens. Objectives A, B, C, F, G of this goal will be met as the additional proposed use allowed with a Special Use Permit in the Mixed-Use District deal with the economy and business in Cascade County. The economy would be strengthened by adding multi-family dwellings to the Special Use Permit list. It not only provides the opportunity for quality affordable housing to residents but promotes local business due to residents staying in Cascade County because of the affordable housing. This goal does not generally promote objective D, as this zoning amendment for allowed uses is not expected to promote the development of cultural resources and tourism to broaden the economic base.

Staff: The additional use to allow a second dwelling in a mixed used district, would not be expected to greatly impact the economic well being of residents in the County. There would be some economic stimulation while a home is under construction. While the use may not impact the objectives specifically, providing a residence for workers to live could promote the agricultural economy, promote new businesses in areas of mixed use (Vaughn, Fort Shaw, Ulm, Tracy, etc) due to the residents, new entrepreneurs, promoting new and existing business and natural resource development.

Goal 2: Protect and maintain Cascade County's rural character and the community's historic relationship with natural resource development.

Applicant: Goal 2 objectives A, B, C, D would apply to the proposed amendment. By the amendment of duplex being added to the Special Use Permit list under the Mixed-Use zoning, it would give Cascade County communities the opportunity the develop housing within the communities themselves. Specifically, regarding objective C, the Special Use Permit process gives jurisdiction to the zoning committee to discourage poor developments and subdivisions.

Staff: Allowing a second dwelling in the mixed use district will encourage development to locate near existing towns and settlements, while promoting preservation of open space and natural beauty. This goal will be met to maintain rural character and promote natural resource development by locating homes near existing developments, preserving open space, and to discourage poor land use.

Goal 3: Maintain Agricultural Economy

Applicant: Goal 3 does not directly apply to the proposed amendment. The agricultural economy will be maintained as the development of duplex dwellings would not impede on any agricultural land but within the communities that are zoned as Mixed-Use.

Staff: Allowing a second dwelling in missed use district may allow for more farmland to be preserved as it can be farmed rather than be developed for housing. Allowing more housing near the agricultural land may promote the economy as farmers and ranchers may be able to live closer to where they work.

Goal 4: Retain the presence of the U.S. Military in Cascade County

Applicant: The proposed amendment will not affect any of Goal 4 objectives.

Staff: The mixed use districts are not in close proximity to Malmstrom Air Force Base or launch facilities and should not have any impact on current or future missions.

Goal 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Applicant: Goal 5 objectives A, B, D apply to the proposed amendment. It would promote living in Cascade County because quality housing that is affordable would be available to the residents in Mixed- Use zones, like Simms, MT. Specifically to this project, this amendment would help the local school district retain teachers. The school has had trouble keeping staff due to the lack of quality, affordable housing. They then choose to commute from out of the county. After so long they do not enjoy the commute and decide to leave the school district. This amendment would encourage the continued development of educational programs. Small communities that are zoned as Mixed-Use will be able to retain their teachers and staff to provide quality education to the local children.

Staff: This goal would be supported as the rural friendly independent lifestyle enjoyed by county residents would be maintained. Allowing a second dwelling in a mixed use district allows individuals to live in rural areas, where they do not need to commute long distances between work and home. The additional use of a second dwelling may help retain individuals working in the area and grow these small communities over time.

Overall Compliance:

Determining compliance with the growth policy for the proposed zoning regulation changes demonstrates the inherent tensions and contradictions between various goals

and objectives. The intentionally broad language used in forming goals naturally leads to statements that are capable of multiple interpretations. Fully meeting one goal may mean that a land use action fully contradicts another. Staff also remains mindful that recent statutory changes to the Growth Policy Act and related court decisions make it clear that growth policies are not regulatory documents and may not be used to condition or deny a land use action.

With these principles in mind, staff finds the proposed changes generally complies with the 2014 Cascade County Growth Policy and the level of compliance is acceptable. The proposal meets the growth policy's goal to sustain and strengthen the economic well-being of the county's citizens. The proposal does not negatively affect Cascade County's rural character or agricultural economy. The growth policy's goal to retain the presence of the U.S. Military does not directly apply. The proposal would be expected to stimulate to have some impact on the local economy, while preserving independent lifestyle enjoyed by county citizens.

Criteria #2:

Whether the zoning regulations have been designed to secure safety from fire and other dangers.

There will be no danger or safety concerns with the proposed tract of land if a 'Duplex' is allowed on the site.

Staff feels that amending the zoning regulation to allow a second dwelling in the mixed use district will secure safety from fire and other dangers as it is in close proximity to existing development and volunteer fire departments and not at the far reaches of the county.

Criteria #3:

Whether the zoning regulations have been designed to promote public health, public safety, and general welfare.

Create quality affordable housing close to the local school.

Staff feels that public health, safety and welfare will be maintained. Most mixed use districts have water/sewer systems to benefit the community and reduce issues associated with individual septic systems which could impact nearby wells and public health.

Criteria #4:

Whether the zoning regulations have been designed to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.

The proposed site is on a corner lot with streets on the north and east sides. An existing well is on site. It is anticipated that it will be abandoned and a new well will be drilled away from the proposed structure. The existing sewer line runs east and west in the street to the north of the site. Simms High School is located directly across Walker St. to the east of the site.

Staff feels that allowing a second dwelling will help facilitate transportation, water, sewage, schools, and other requirements as a second home will be located close to existing residences where these services are already in place rather than locating in an area where there are no services and must be established.

Criteria #5:

Whether the zoning regulations have been designed to provide adequate light and air.

The proposed amendment does not affect the current conditions of the site and adequate light and air will still be present.

Staff feels the proposed amendment should not impact adequate light and air.

Criteria #6:

Whether the zoning regulations have been designed to address effects on motorized and non-motorized transportation systems.

There is no affect on the transportation system but allows for non- motorized transportation (walking) to and from the local high school across the street. It is anticipated that school staff and faculty reside at the proposed duplex residence.

Staff feels that the amendment could impact non-motorized transportation and individuals may not need to commute long distances to work each day, but could walk or ride a bike if the home is in close proximity to where they work. This would also decrease the amount of motorized transportation by eliminating trips or long distance commutes that would not be needed.

Criteria #7:

Whether the zoning regulations have been designed to be compatible with urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities.

The site is within the original townsite of Simms.

Staff feels this amendment will be compatible with the townsite of Simms.

Criteria #8:

Whether the zoning regulations have been made with reasonable consideration to the district's peculiar suitability for particular uses.

The district would benefit by developing vacant lots and creating quality affordable housing.

Staff feels this request in the mixed use district is valid as the lot sizes are generally small in size and do not need to accommodate water and wastewater systems as the communities typically have a system.

Criteria #9:

Whether the zoning regulations have been made with a view to conserving the value of buildings.

It is anticipated that the value of existing buildings would see no change or increase in value due to the development of housing, especially across from a local educational facility.

Staff feels that the building values will be conserved in the future as other residences may be built nearby.

Criteria #10:

Whether the zoning regulations have been made with a view to encouraging the most appropriate use of land throughout the jurisdictional area.

The proposed amendment to allow 'Duplex' to be added to the list of uses in MU – Mixed Use section 7.8.10 Use Permitted Upon Issuance of a Special Use Permit would be compatible for all nearby municipalities. The proposed amendment still gives the jurisdiction to the Cascade County Zoning Review Board. It will allow users to propose the development of a duplex in the MU zoning districts and the review board to deem it appropriate or not through the Special Use Permit process outlined in the current Cascade County Zoning Regulations.

Staff feels that allowing second dwelling in mixed use district allows for appropriate uses of land through the area, as it conserves agricultural land and promotes development near existing towns.

RECOMMENDATION

The recommendations before you are for consideration today for the public to have an opportunity to voice their approval or concerns. These changes will be forwarded to the Commissioners where the public will again be able to address any additional questions or concerns.

MOTIONS:

Alternative One- The Planning Board, after reviewing the staff report and proposed regulation changes for compliance with the criteria and guidelines for zoning regulations MCA 76-2-203, adopt the staff report and recommend to the Board of County Commissioners that the request to amend Section 2 (Definitions), and Section 7.8.10 (Uses Permitted Upon Issuance of a Special Use Permit in Mixed Use District)" be **denied**;

OR:

Alternative Two- The Planning Board, after reviewing the staff report and proposed regulation changes for compliance with the criteria and guidelines for zoning regulations MCA 76-2-203, adopt the staff report and recommend to the Board of County Commissioners that the request to amend Section 2 (Definitions), and Section 7.8.10 (Uses Permitted Upon Issuance of a Special Use Permit in Mixed Use District)" be **approved**.

Attachments: Draft Zoning Regulation, Section 2 and Section 7.8.10